IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.2221 OF 1991

Bapu Rama Jadhav,)
since deceased by his heirs:)

1. Shri Vilas Bapu Jadhav,)
2. Shri Shamrao Bapu Jadhav,)
3. Shri Mohan Bapu Jadhav,)
4. Shri Pratap Bapu Jadhav,)
5. Shri Anna Rama Jadhav,)
since deceased by his heirs)
& Legal representatives:-)
5-A. Rangubai Anna Patil,)
age about 80 years,)
Occupation : Housewife,)

5-B. Sampatrao Anna Jadhav,)
age 60 years,)
Occupation : Retired Clerk,)

5-C. Pandurang Anna Patil,)
Age 57 years,)
Occupation : Primary Teacher,)
All residing at & Post :)
Sultangade, Tal.Khanapur,)
District : Sangli.)

6. Shri Khoshaba Rama Jadhav,)
All R/o.Sultangade,)
Taluka - Khanapur,)
District - Sangli.).. Petitioners

Versus

1. Shantilal Bhikchand Shah,)
Since deceased through his)
heirs & Legal representatives:)

1-A. Suresh Shantilal Shaha,)
Age Adult, Occupation-Business,)

1-B. Chandrakant Shantilal Shaha,)
Age Adult, Occupation-Business)

1-C. Kiran Shantilal Shaha,)

Age Adult, Occupation-Business)

1-D. Arun Shantilal Shaha,)
Age Adult, Occupation-Business)

1-E. Jayantilal Shantilal Shaha,)
Age Adult, Occupation-Business)

1-F. Vijay Shantilal Shaha,)
Age -Adult,Occupation-Business)

1-G. Ajit Shantilal Shaha,)
Age Adult, Occupation-Business)

1-H. Hemlata Ramanlal Shah,)
Age Adult, Occupation-Housewife)

1-I. Asharani Ajit Varvaria,)
Age Adult, Occupation-Housewife)

1-J. Usharani Chintamani Shaha,)
Age Adult, Occupation-Housewife)

1-K. Nisharani Satish Shaha,)
Age Adult, Occupation-Housewife)

1-L. Hirabai Shantilal Shaha,)
Age Adult, Occupation-Housewife)

All residents of At & Post :)
Palus, Taluka - Tasgaon,)
District - Sangli.)

2. Shri H.M.Mohite,)
Hon'ble Member, Maharashtra)
Revenue Tribunal, Kolhapur.).. Respondents

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Shri S.G.Page for the petitioners.

Smt.Anjali N. Helekar for the Respondent Nos.1-A to 1-L.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 29TH SEPTEMBER, 2006

ORAL JUDGMENT:

1. Heard. The only grievance which the petitioners make is that in a proceeding under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948, while dealing with the objection raised by the respondents-landlords, the contention of the petitioners that while fixing the ceiling limit of land for the petitioners, the fact that such land included the land which has submerged under the water and occupied by the road was not at all considered. On the other hand, it is the case of the respondents that the allegation regarding submerging of the land in the water or existence of the road did not relate to the period prior to 1st April, 1957, and therefore, the authorities could not have taken into consideration those aspects while fixing the ceiling limit of the land for the petitioners.

2. The law on the point that the appointed day was 1st April, 1957 for the purpose of fixation of ceiling limit is well settled. For the purpose of ascertaining the ceiling limit of the land, the events which had occurred subsequent to 1st April, 1957 are of no relevancy in the proceedings under Section 32-G of the Tenancy Act, and that is well settled and reiterated by the learned Single Judge in **Dattaraya**

Anant Wakade & Anr. v. Rangrao Sultanji Ghorpade & Ors., reported in 2003(2) Mh.L.J. 462. The said decision is sought to be relied upon by the learned advocate appearing for the respondents. The decision of the Leave Reserve Deputy Collector, Sangli, dated 6th December, 1978 in this regard clearly discloses that the petitioners have not been able to show that the submerging of land and construction of the road were on or prior to the 1st April, 1957. The said finding having been given on assessment of the evidence and being a finding of fact, the question of interference therein in writ jurisdiction does not arise, and the finding can neither be complained of any perversity.

3. Considering the law on the point, the finding of fact arrived at by the competent authority which is clearly borne out from the record and the decision in **Dattatraya Anant Wakade's case (supra)**, there is absolutely no case made out for interference in the impugned order in writ jurisdiction, and therefore, the petition fails and is hereby dismissed. The rule is discharge with no order as costs. Interim relief stands vacated.

(R.M.S.KHANDEPARKAR, J)